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14th Legislative Assembly of the Northwest Territories

Interim Report of the Special Committee on the Implementation of Self-Government and the Sunset Clause

Co-Chairs: Ms. Sandy Lee, MLA
Hon. Jim Antoine

Northwest Territories Legislative Assembly

Special Committee on the Implementation of
Self-Government and the Sunset Clause

MAR 1 2 2003

THE HONOURABLE ANTHONY (TONY) WHITFORD, MLA
SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker,

Your Special Committee on the Implementation of Self-Government and the Sunset Clause is pleased to present its Interim Report and commends it to the House.

Sincerely,

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TERMINOLOGY

Self-government agreements, and other related documents, can be long and technically complicated. Therefore, discussing self-government in general terms can be problematic, because the details are important. However, this Interim Report is only an overview and we have tried to avoid technical language so that it will be more accessible to the average reader.

In addition, we have deliberately avoided using the phrases "public government" and "Aboriginal self-government". These phrases suggest clear distinctions that will not likely be reflected in practice. In our view this terminology tends to imply separate realities or watertight compartments. From our work to date, we have concluded that governments in the NWT will not be easily categorized as "Aboriginal" or "public". The governance systems described in documents produced at the negotiation tables often do not fit neatly into one box or the other.

For example, the territorial government in Nunavut is sometimes called an expression of Aboriginal self-government, but in the NWT the territorial government is usually referred to as the public government. The draft *Gwich'in and Inuvialuit Self-government Agreement in Principle*, and the *Tlicho Agreement* are products of self-government negotiations but will provide mechanisms to deliver programs and services to all residents in many situations. The *Deh Cho First Nations Framework Agreement* states that a Deh Cho government will be a "public government" based upon Deh Cho First Nations laws and customs and other Canadian laws and customs.

In this Interim Report we simply use the phrase "self-government" by itself. We think this describes the type of government all NWT residents want. From this perspective "self-government" can be seen as a statement about the capacity of NWT residents to make decisions for themselves, rather than as a reference to a particular model of government that applies to a particular group of people.

Similarly, we use the phrases "community government" and "regional government" to indicate the approximate geographical area in which a particular government will operate, regardless of how they might be established. We are aware that the composition, structure, and powers of community and/or regional governments might vary considerably from agreement to agreement.

INTRODUCTION

This is a story about the search for the "self" in "self-government".

"Self" government has meaning for all of us. We all want to be self-governing. We all want to keep our identities as individuals and groups, but we live closely together. Together we make up the communities of the NWT and the governments that serve them.

In our view, this is the starting point for understanding the systems of governance that have evolved in the NWT in the past, and for examining what potentially lies ahead as a result of negotiations to establish new systems of governance in the Northwest Territories in the future.

When the resident territorial government was established in 1967, it came with a federal government promise of greater self-government. However, as the *Royal Commission on Aboriginal Peoples* has documented, while the system of territorial government in the NWT has been better than most in Canada in responding to Aboriginal peoples' cultures and values, it has not gone far enough. A central purpose of self-government agreements is to ensure that Aboriginal peoples gain more control over decision-making on matters that affect them.

We have been working to understand the new systems of government that are emerging from self-government negotiations. We want to understand these agreements so that we have a sense of how things will change for the Legislative Assembly and GNWT, but more importantly so we can have a territory-wide conversation about what all NWT residents can expect in the future.

The provisions of a single self-government agreement are sufficiently complex that good forecasts about its implementation are not entirely credible. When two, three, six, seven or more self-government agreements are factored into the equation, the process of mapping out implications is even more difficult.

Even though self-government agreements are generally quite detailed, these documents, and the other legal and political side agreements required for their implementation, will in all likelihood only provide a framework, rather than a script, for governance in the NWT. The literal wording of every provision of self-government agreements will probably not be strictly implemented. This does not mean these agreements will lose their legal or political force. Simply put, over time practical approaches will need to be taken by all governments in the NWT if

governance is to be effective, as has been the case with the Constitution of Canada itself.

So while the situation is not entirely predictable at this point, a clearer picture is emerging as each new agreement is concluded. These agreements will result in fundamental changes to many aspects of the way the Assembly and GNWT now do things, including:

- law-making
- policy-making
- government decision-making
- government operations, including program and service delivery
- human resources management
- land and resources matters
- financial management including taxation and other revenues
- capital assets and other facilities
- intergovernmental relations.

There will be fundamental changes in the relationships among the community, regional and territorial levels of government. Responsibilities for law-making and for the delivery of several programs and services will change. Self-government agreements often involve systems for delivery of programs and services to all residents. The people we will hold accountable will consequently change. Governments will be required to consult more with each other and to coordinate and cooperate in their activities.

We have also been struggling to understand the practical issues surrounding implementation of self-government agreements. Again, the expression "implementation of self-government" can be misleading. Describing the evolution of a system of governance in this way can make it sound like a process that is done once or that can be completed in a specific time. By contrast we are unlikely to describe the political, economic and social processes that go on continuously in Canada as "implementing public government".

Government is simply the way we organize ourselves to achieve our common goals. Everyone is now talking about "partnerships", "stakeholder cooperation", "co-management", and "shared jurisdiction". We are all involved. We share responsibilities for finding common objectives and addressing competing interests.

We know that many people in many organizations and levels of government are thinking about these potential changes and are trying to find practical ways to manage a smooth transition. It is important to remember that change will occur over many years rather than completely and suddenly on a given date.

There was a time in the NWT and across Canada when communities were relatively self-sufficient and self-governing. One of the strongest trends of the 20th century has been the increasing involvement of many levels of government in virtually every aspect of our daily lives. How did this happen? One reason is that collectively we have chosen to organize ourselves in ways to improve the standards and conditions in which we live. Most of us now expect governments to deliver a broad range of important programs and services such as health, social services, education, transportation, housing and so on. If these roles and responsibilities are not carried out, we blame "government".

But again, who is the "government"? We are. In the NWT, with its small population and close-knit communities, the "government" is potentially every one of us, our friends and our neighbours. We, the residents of the NWT, make up all northern "governments", whether it is the territorial government, bands, Aboriginal Councils, community governments, regional boards and agencies, and so on.

How can you help? In delivering this Interim Report, we want to encourage a full dialogue or conversation about how we can work together to make the NWT a better home for all residents. Most of us think we would do things differently if we were in charge, if we were the government. What would you change and what would you want to stay the same?

Imagine you have the opportunity and responsibility to make such choices...because in fact you do. This is what self-government involves, for all of us. Self-government agreements will place the emphasis back on the communities and the people. The futures of all NWT communities will be linked together even more closely than they are today. The new relationships that will develop among our northern governments will depend on our attitudes, and our relationships with each other.

We welcome your views on these important matters.

PART 1

About the Special Committee

Mandate

A copy of the detailed mandate given to the Special Committee by the Legislative Assembly is attached as Appendix I.

In the summer of 2002, the Special Committee submitted its report and recommendations on the Sunset Clause. We are now working to complete the second stage of our mandate relating to the implementation of self-government. The Special Committee is not involved in self-government negotiations. We are looking at how negotiated agreements will change government structures, programs, services, and financing arrangements, and will make recommendations to the Legislative Assembly on how to manage these changes for the benefit of all residents in the NWT.

Process to Date

In addition to meetings during the late summer of 2002, the Committee held two planning workshops during the fall of 2002, and another in mid-February 2003. At these workshops the Committee reviewed research, discussed issues and provided direction to Committee staff. The Committee sent letters to northern leaders in December, 2002 indicating their desire to engage in discussions about implementing self-government. In March, 2003 a brochure was made available to the public to provide an update on Committee activities and encourage input.

Documentation

In preparing this interim report we have based our analysis on a range of publicly-available documents which have emerged from self-government processes in the NWT to date. A list of important documents is included as Appendix II.

Understandably these documents do not give a complete picture of self-government. In some cases they are process documents to guide further negotiations that may take years to complete.

In other cases, there may be important details yet to work out even though an agreement is near completion. For example, financial arrangements and legislation will be required to implement most agreements.

For these reasons alone, any study of potential implications of self-government at this time will be incomplete. Therefore, we must stress that our conclusions only represent ***potential*** implications. However, even if all the agreements were in final form, the full practical implications would still be uncertain. Agreements, no matter how detailed, cannot predict all the changes that will occur as new systems of governance evolve and adapt.

Governments are living things: they change and grow. Agreements only capture a snapshot of intentions as of the date they are signed, but their implementation must occur in the context of changing circumstances over long periods of time. Furthermore, in the NWT there will not just be one or two self-government agreements. There could be seven or more. In addition to the objectives set out in the agreements, the dynamics among these governments will generate numerous unanticipated and unpredictable implications.

Even given such uncertainty, a study of the potential implications is an important step to be taking at this time, and on an ongoing basis, so that NWT residents and governments can understand and prepare for the changes that might come.

This Interim Report

While this Interim Report is based on a review of framework agreements, interim measures agreements, Agreements-In-Principle ("AIP") and final agreements, it is only a broad overview. It contains our preliminary views and is intended as a discussion document.

Self-government is a subject that requires careful study and respect. It is not an easy subject to confine to a relatively short report. There are many ways to approach any study of self-government and the Committee hopes that the approach taken here will be helpful.

In this report we have not attempted to explain why land claims and self-government agreements are being negotiated with Aboriginal peoples in the NWT. Nor do we review the political and legal history that has led to negotiations. This information is available from a number of other sources, such as the background document prepared by the Ministry of Aboriginal Affairs entitled: *Aboriginal Self-government in the Northwest Territories: Understanding Self-government*. This document and other related information can be found online at:

http://www.gov.nt.ca/research/publications/index.html

Instead, the starting point for this report is the assumption that a number of self-government agreements will be negotiated, ratified and implemented. Therefore, based on our understanding of the situation in the NWT today, we attempt to identify the broader implications which implementation of these self-government agreements is likely to have for governance institutions, laws, policies, programs and services, and other government processes and operations in the future.

To date there have been a number of self-government agreements in Canada. A range of self-government models is emerging. Elements of the *Nisga'a Final Agreement* or the self-government agreements with Yukon First Nations can act as precedents for self-government arrangements in the NWT. Similarly, the *Tlicho Agreement* or the *Draft Gwich'in and Inuvialuit Self-government AIP for the Beaufort-Delta Region*, or some aspects of them, might act as precedents in other regions in the NWT. Or they might not. Given the differing circumstances from region to region, each set of negotiations usually produces variations on the earlier agreements.

This report should not be seen as standing alone. Other recent studies are also relevant and may provide additional insights and details to inform the broad trends and issues identified here.

Among these other sources of information is this Committee's own report on the Sunset clause which examined certain issues that have a bearing on representation in the Legislative Assembly and on the establishment of electoral districts.

Another is the report of the Special Joint Committee on Non-Tax-Based Community Affairs which is an important piece of work describing important issues facing some of the smaller communities in the NWT. Many of the communities examined in that report will be facing new

responsibilities and challenges as self-government agreements are negotiated and implemented.

The Dogrib Treaty 11 Council and the Beaufort-Delta Self-government Office have produced plain-language summaries and information sheets on their respective agreements to date.

Other information such as recent labour force studies may be relevant because of the need to staff new self-government institutions and bodies. Information about the NWT work force and job opportunities can be found on websites such as: http://www.jobsnorth.ca/issue4a.pdf

Other studies are still underway. For example, the Government of the NWT has commissioned a study by the firm of Deloitte Touche on options for the future structure of the GNWT's departmental and headquarters operations. This study, which will be completed in the summer of 2003, will examine some issues that are also of interest to the Special Committee on Implementation of Self-government. The findings and perspectives contained in the Deloitte Touche study will be taken into account in our final report.

Even a single legal, political or financial issue could be the subject of a lengthy analysis and report.

However, the objective of this study is not to analyze all the possible legal interpretations of the agreements to date, nor to speculate on the potential provisions of future agreements. There are many ways to conceive of self-government, and even more ways to implement self-government in practice. There is no finite set of implications, and implications are not confined to one separate period of time. They will be on-going and will vary in response to changing circumstances.

To summarize, there is not one view, nor one approach, on the matters outlined in this report.

Consultations & Anticipated Next Steps

As of the date of this report, we have not conducted formal consultations with the public or with specific organizations or governments on the second phase of our mandate. We intend this Interim Report to be a basis for consultations with stakeholders in the coming months. In the period after the release of this preliminary report, we will seek input from as broad a range of stakeholders as time and resources will allow.

The consultations the Committee will undertake are not to inform any position or policy in relation to negotiations. Rather, we are more interested in finding ways to help achieve practical and positive outcomes for the systems of governance that will flow from self-government agreements once they are concluded.

We are interested in ongoing relationships and the evolution of NWT society in the context of changing roles and responsibilities among governments.

In order to have meaningful consultations, therefore, the Committee felt it should provide a basis for discussion and that the best way to do this was through the release of this Interim Report which sets out some of our preliminary views on trends and issues that will likely flow from implementation of self-government.

In our work we have reached the conclusion that self-government agreements will not likely lead, as some might believe, to a clear separation of government functions. Instead, it appears these agreements will generally require all levels of government in the NWT to work even more closely together than is currently the case.

This interim report is really intended to test these and other preliminary conclusions. We sincerely hope it will contribute to a better understanding of our evolving systems of governance and promote a positive approach to our shared future in the NWT. Our goal is to encourage a discussion of practical ways to reach accommodations within NWT society for the changes that are coming, and to realize benefits for all residents of the NWT.

The Committee's Final Report will take into account and build upon the reactions and input received.

PART 2

The Five C's

Trends and Issues

The Committee has identified five broad trends and issues that appear to be emerging from self-government negotiations and agreements in the NWT.

What do we mean by "trends and issues"? For purposes of this Interim Report, a "trend" is a particular pattern or direction we have identified in self-government documentation. The three trends we believe will be the major drivers of change are: 1) changes to the status and powers of **communities**; 2) **concurrency** of law-making powers; and 3) formal **consultation** requirements imposed on all governments.

We use the word "issue" to mean a particular requirement or matter that will need to be addressed as a result of a trend. Two important ongoing issues, in our view, will be the need for **coordination** and **cooperation** among governments.

For convenience, we will call these the Five C's.

Some of the trends and issues that make up the Five C's might already be quite well-known or even obvious. However, we believe they are worth exploring further. In addition, all northern governments, including the GNWT, will need to address questions of capacity when considering the potential implications flowing from the Five C's.

Determining the implications of self-government agreements in the NWT is not a precise science. However, we believe the 5 C's in particular will result in fundamental changes to many aspects of the way the Assembly and GNWT now do things, including:

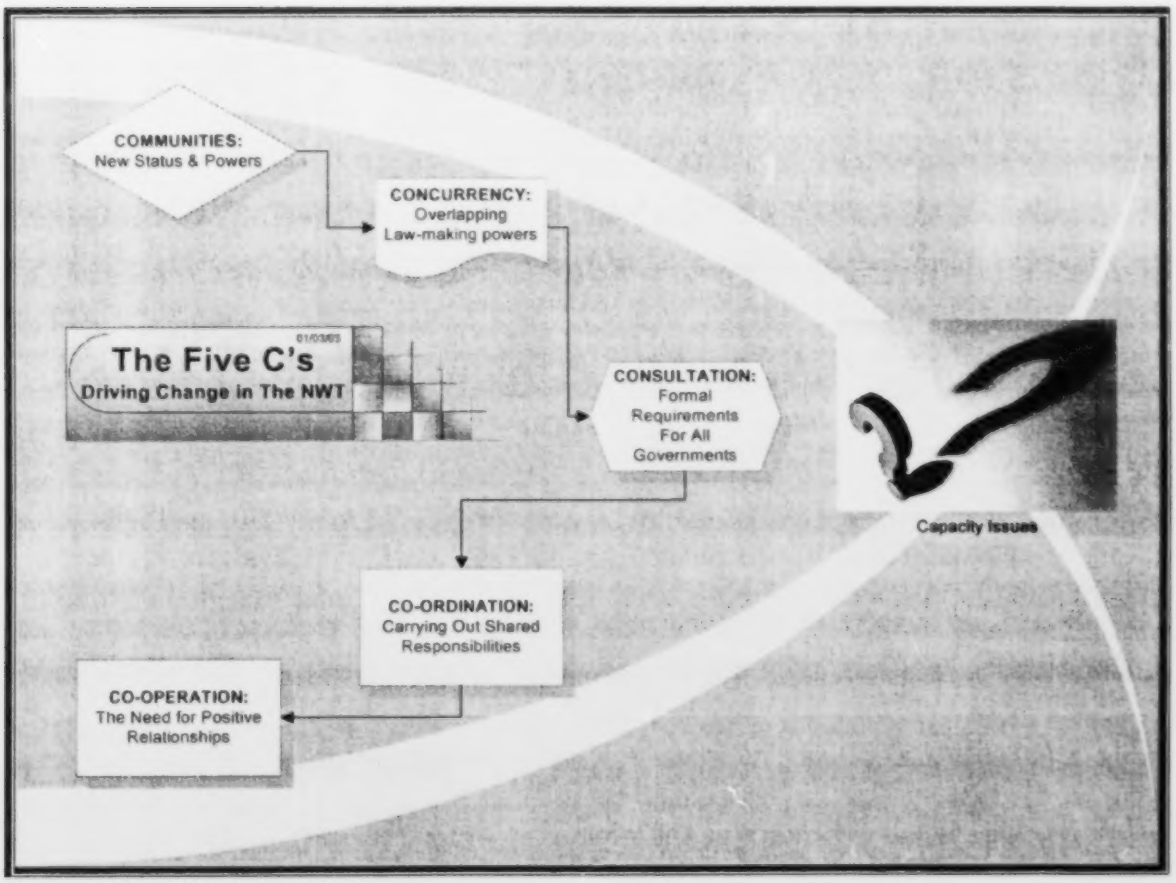
- law-making
- policy-making
- government decision-making
- government operations, including program and service delivery
- human resources management

- land and resources management
- financial management including taxation and other revenues
- capital spending for facilities and other assets
- lines of accountability
- intergovernmental relations.

Responsibilities for law-making and for the delivery of several programs and services will change. Self-government agreements often involve systems for delivery of programs and services to all residents. The people we will hold accountable will consequently change.

Governments will be required to consult more with each other and to coordinate and cooperate in their activities. Therefore, there will be fundamental changes in the relationships among the community, regional and territorial levels of government.

Figure 1: The Five C's Driving Change in the NWT



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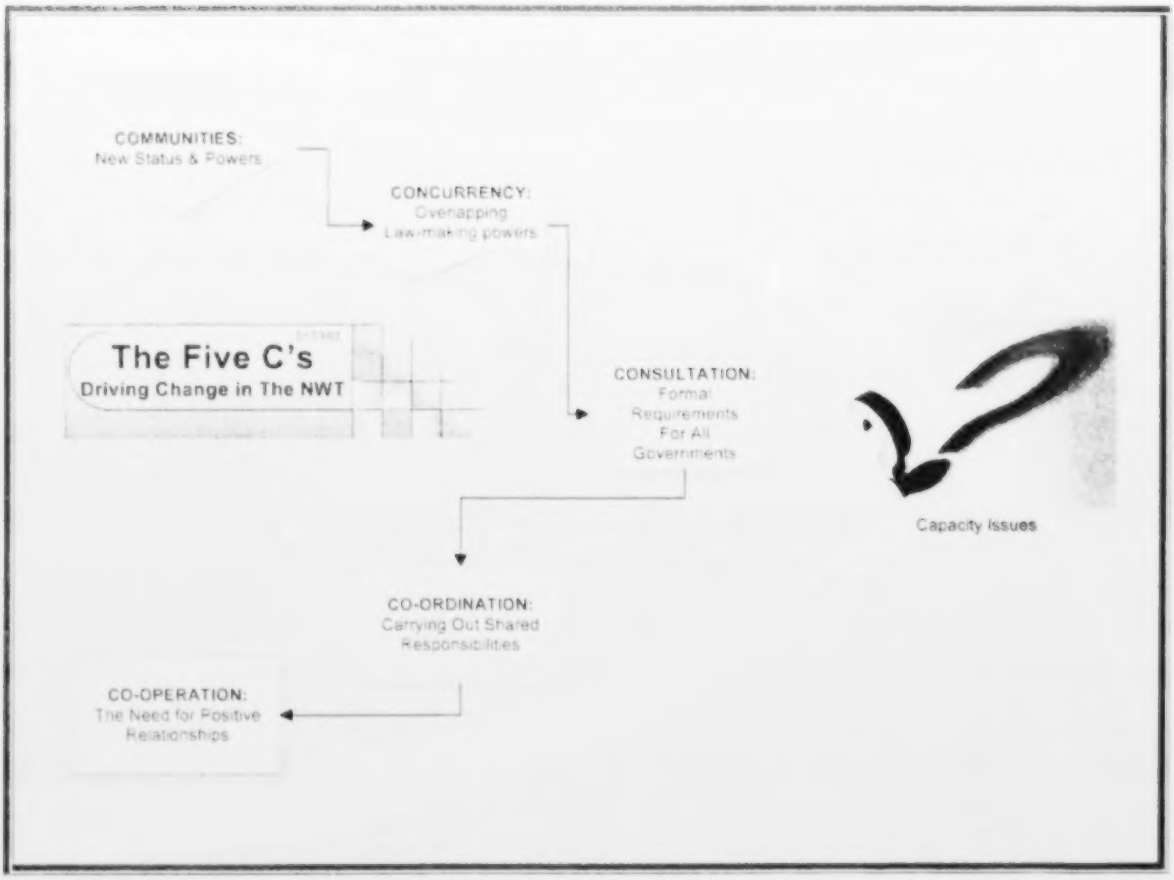

Negotiations are at Different Stages

The Committee has tried to be cautious when speculating on trends and issues, because negotiations are at different stages. The Salt River First Nation concluded a *Treaty Settlement Agreement* in 2002 and implementation is proceeding. While negotiations on the *Tlicho Agreement* are now completed, the Agreement has not yet been ratified and put into effect. The *Draft Gwich'in and Inuvialuit Self-government Agreement-in-Principle* ("AIP") might require several more years of negotiation before a final agreement is concluded and implemented. The Deh Cho *Framework Agreement* has set May, 2006 as the target date for an agreement-in-principle and May, 2008 for a final agreement. Deline had set 2000 as the target date for an AIP, but this has not yet been concluded. The Deline AIP will include a target date for a final agreement. In the Akaitcho process, the target date for an AIP is July 2003. The South Slave Metis (now called the Northwest Territory Metis Nation) *Framework Agreement* signed in 1996 set a target date of 1997 for an Agreement-in-Principle on a range of matters, but self-government was not to be addressed until the second stage of negotiations. As of 2003, the Parties to this process are still negotiating an Agreement-in-Principle.

Experience shows that in most negotiation processes there are inevitably slippages in target dates. This is not surprising given the complex and important issues under negotiation.

Public Government and Aboriginal Self-Government

The Five C's are not new. Other reports and publications have referred to one or more of these trends. What might be new is our view that, in the NWT, we will need to reconsider the distinctions that are often made between "Aboriginal self-government" and "public government".

As the *Royal Commission on Aboriginal Peoples* has documented, government institutions in Canada often do not do enough, or do not operate in a way that is sensitive to Aboriginal cultures and values. A central goal of self-government agreements is to ensure that Aboriginal peoples gain more control over decision-making in matters that affect them. The objective is to improve both the level and quality of programs and services, while at the same time strengthening Aboriginal societies.

Self-government agreements are intended to change the relationships and responsibilities among governments operating in the NWT and to empower Aboriginal peoples. We do not doubt that this will occur. However, we often hear references to "public government" and Aboriginal self-government" as though they were separate realities or watertight compartments. But what do these words mean?

For example, the territorial government in Nunavut is sometimes called an expression of Aboriginal self-government, but in the NWT the territorial government is usually referred to as the public government. The draft *Gwich'in and Inuvialuit Self-government Agreement in Principle*, and the *Tlicho Agreement* are products of self-government negotiations but will provide mechanisms to deliver programs and services to all residents in many situations. The *Deh Cho First Nations Framework Agreement* states that a Deh Cho government will be a "public government" based upon Deh Cho First Nations laws and customs and other Canadian laws and customs.

It appears to us, therefore, that governments in the NWT are not easily categorized as "Aboriginal" or "public", and that the governance systems described in documents produced at the negotiation tables often do not fit neatly into one box or the other.

Throughout this report we avoid the use of the terms "Aboriginal self-government" and "public government" because we believe this suggests a clear distinction that will not be reflected in practice. Instead we use the term "self-government" as a qualitative description of the type of government all NWT residents want. From this perspective "self-government" can be seen as a statement about the capacity of NWT residents to make decisions for themselves, rather than as a reference to a particular model of government that applies to a particular group of people.

The "self" in self-government is a circle that can be drawn as wide or as narrowly as we choose. On one level it can refer to our individual responsibilities within a community, on another level it can help us define the size of the "community" itself. We have chosen in this report to view the circle of self-government as including all residents of the NWT.

What, and Who, is "Government"?

Any discussion about relationships between "Aboriginal self-government" and "public government" raises questions not just about the meaning of

"self" and the meaning of "public", but also about the word "government" itself.

The word "government" conjures up different images for different people. Textbooks and dictionaries define these words "government" and "governance" as follows:

> "government" means a system of governing; a body or bodies of persons governing a state; an administration or ministry.
>
> "governance" means the act, manner, fact or function of governing.

However, we are of the view that such definitions tend to hide the fact that in the NWT, with its small population and close-knit communities, the "government" is potentially every one of us, our friends and our neighbours. We, the residents of the NWT, make up all northern governments.

Government is simply the way we organize ourselves to achieve our common goals. Government institutions at the federal, provincial, territorial, regional and community levels deliver social services, health, education and many other programs and services.

In fact, in Canada governments are involved in virtually every aspect of our lives, and the NWT is no exception. Some of the roles we have come to expect government to play include:

- *Protective functions*, such as defence, policing, public safety (e.g. fire fighting), public health, sanitation, environmental protection, etc.
- *Social services*, such as education, welfare, hospitals, seniors services, parks and recreation
- *Cultural services*, such as language preservation & development, religious institutions, artistic and cultural celebration, education in relation to traditional knowledge
- *Physical services*, such as roads, airports, and public utilities (light, power, water, sewer)

- *Economic functions*, including planning, development licensing and regulation, traditional pursuits, borrowing and attracting investment.

Governance, or the ***process*** of governing, involves making choices about allocation of scarce resources. There are rarely enough resources to achieve all political, social, economic and cultural goals. We are all involved because of shared responsibilities for addressing common objectives or competing interests. Governance is the process of searching for and finding balance among competing interests.

The pressures to make these choices will continue in the NWT, but the number and range of governments with valid claims to involvement in governance processes is likely to increase. Consequently, decision-making is likely to be more complicated than under the current system of territorial, community and band governments. Governments will need to cooperate and coordinate to address these complexities.

In the future, we believe it will be more important to look at governments from the perspective of NWT residents. What can residents expect in terms of programs and services? Who should they look to for delivery of these programs and services? Who should they hold accountable? How will their interests be represented in government? How will current roles and responsibilities change among northern governments that deal with local, regional and territorial issues? These are just a few of the questions that are the subjects of self-government negotiations.

Matters like education, health care and social services affect everyone. The challenge in practice will be to find an appropriate balance between the influence and control of the various governments involved.

PART 3

A Closer Look at the Five C's

The trends and issues we have called the Five C's are linked together. In this part of the Interim Report we provide additional details in order to show why we believe each of the Five C's is important for understanding how governance in the NWT will be different once self-government agreements are in effect.

1. Communities: New Status and Powers

Provisions of self-government agreements signal a fundamental change in the relationships between the law-makers in the Legislative Assembly and those in communities and regions.

Self-government agreements are fundamental elements of the constitutional makeup of the Northwest Territories. Together with land claims agreements, they recognize and affirm a wide range of rights of Aboriginal peoples in relation to land, resources and governance.

Self-government agreements will establish institutions, systems and processes that have as their objective greater local or regional control. However, these agreements do not create closed systems. Self-government arrangements in any particular community or region will affect, and will be affected by, other governance systems in the NWT.

Agreements currently being negotiated in the NWT might be given constitutional protection as treaties under the Constitution of Canada. This would mean that some or all of the provisions of these agreements would be protected from infringement by federal or territorial laws. It would also ensure that in most cases such an agreement would not be amended without the consent of the Aboriginal people affected. Agreements that are protected as treaties would command a profound level of constitutional respect.

This is significant because the legal and constitutional status of self-government agreements can have a bearing on the legal and constitutional status of the governmental institutions described in them. For example, the status and powers of community and

regional governments is an important feature of most self-government negotiations in the NWT.

Currently, local and regional governmental bodies in the NWT are created by, and have powers delegated to them under legislation enacted by the Legislative Assembly. (Bands may exercise by-law making powers under the federal *Indian Act*.)

Not only are local or regional laws subject to territorial legislation, courts in Canada have generally taken a restrictive interpretation to the scope of powers delegated to local or regional governments. However, an important trend in self-government negotiations in the NWT is to recognize greater scope and flexibility for the powers to be exercised by community and regional governments.

Under some self-government agreements the community governments may be established by territorial legislation based on a framework set out in the self-government agreement, but there may be restrictions on the ability of the Assembly to amend this legislation in the future.

In other cases the status and existence of community governments might flow directly from the self-government agreement itself. Therefore, once the self-government agreement comes into effect the Assembly may have limited legislative authority over the structure and powers of such communities.

In order to make way for the new community structures and powers, some existing communities established under laws of the Legislative Assembly will be 'dissolved'.

Implementation of self-government agreements could bring fundamental changes to the legal relationships between the Legislative Assembly/GNWT and many, if not most, communities in the NWT. Table 1 sets out the communities which are currently engaged in some form of self-government process and therefore which will potentially be affected by self-government agreements in the future.

Table 1: NWT Communities and Self-government Negotiation Processes

Beau-Del	Salt River	Tlicho	Deh Cho	Sahtu	Akaitcho	NWT Metis Nation	Communities Not Currently in a Process
Inuvik	Fort Smith	Wekweti (Snare Lake)	Wrigley	Deline	Dettah	Fort Smith	Fort Good Hope
Aklavik		Gameti (Rae Lakes)	Ft. Simpson	Tulita	NDilo	Hay River	Colville Lake
Holman		Rae-Edzo (Behchoko)	Jean Marie River		Lutsel K'e	Ft. Resolution	Norman Wells
Tuktoyaktuk		Wha Ti (Lac La Martre)	Ft. Providence		Deninu Kue (Ft. Resolution)		Yellowknife
Ft. McPherson			Hay River				
Paulatuk			Enterprise				
Sachs Harbour			Kakisa				
Tsiigehtchic			Trout Lake				
			Ft. Liard				
			Nahanni Butte				

Table 1: NWT Communities and Self-government Negotiation Processes

Beau-Del	Salt River	Tlicho	Deh Cho	Sahtu	Akaitcho	NWT Metis Nation	Communities Not Currently in a Process
Inuvik	Fort Smith	Wekweti (Snare Lake)	Wrigley	Deline	Dettah	Fort Smith	Fort Good Hope
Aklavik		Gameti (Rae Lakes)	Ft. Simpson	Tulita	NDilo	Hay River	Colville Lake
Holman		Rae-Edzo (Behchokö)	Jean Marie River		Lutsel K'e	Ft. Resolution	Norman Wells
Tuktoyaktuk		Wha Ti (Lac La Martre)	Ft. Providence		Deninu Kue (Ft. Resolution)		Yellowknife
Ft. McPherson			Hay River				
Paulatuk			Enterprise				
Sachs Harbour			Kakisa				
Tsiigehtchic			Trout Lake				
			Ft. Liard				
			Nahanni Butte				

2. Concurrency: Overlapping Law-Making Powers

The general trend in self-government processes in the NWT is to negotiate self-governments that have "concurrent" law-making powers. This means that the community and regional governments recognized under self-government agreements will have overlapping jurisdiction with the Legislative Assembly on a number of matters.

"Concurrent powers" means, in practice, that more than one level of government can validly make laws and carry out programs and services in relation to the same matters. When we use the word "validly" in this context, we mean valid from a legal perspective. In other words a court would find such a law to be a valid exercise of power. (Political legitimacy is a different issue which is not considered in this report.)

The nature and scope of the implications arising from self-government agreements will, of course, depend on the formal and informal relationships which will exist between and among the various levels of governments exercising these concurrent powers and responsibilities.

Under the current *NWT Act*, the Legislative Assembly is given law-making powers over a number of subject areas. The laws enacted under these powers form the basis for virtually all authority exercised by the Government of the NWT.

Some of these subject areas are very broad. For example, the law-making power over "property and civil rights" is probably the most important head of territorial and provincial power. The phrase "property and civil rights" is so broad, in fact, that almost any statute, with the possible exception of pure criminal law, could potentially fall within this law-making power.

Table 2 contains a summary of the main law-making powers of the Legislative Assembly, together with a typical list of areas of jurisdiction that are often the subject of self-government negotiations. This Table helps illustrate why the trend toward concurrent law making powers, as between the Legislative Assembly and law-making authorities at the community or regional levels, is so significant. Once self-government agreements are in effect, there could be overlapping jurisdictions and responsibilities

among a number of institutions at the community, regional and territorial levels.

Table 2: Comparison of Law-making Powers

Legislative Assembly Powers Under the *NWT Act*	Typical Subject Matters for Self-government Negotiation Tables (Based on Deh Cho First Nations Framework Agreement)
1. direct taxation 2. establishment territorial offices 3. municipal institutions 4. elections of members to the Legislative Assembly 5. the licensing to raise revenue 6. the incorporation of most but not all territorial companies 7. marriage 8. property and civil rights 9. the administration of justice 10. prisons, jails or lock-ups 11. the issuing of licences or permits to scientists or explorers 12. tax on furs 13. the preservation of game 14. education 15. the management and sale of certain lands and forests 16. roads and trails on public lands 17. intoxicants 18. hospitals 19. agriculture 20. the expenditure of territorial money 21. general territorial matters 22. fines, penalties, imprisonment or other punishments 23. other matters conferred by the federal government 24. official languages	1. Settlement area and tenure of land 2. Legal status and capacity of self-government 3. Constitution of self-government 4. Models of governance 5. Intergovernmental relationships 6. Government liability 7. Aboriginal citizenship and eligibility 8. Natural resources management & land use planning 9. Environmental matters 10. Forestry 11. Wildlife harvesting and management 12. Fisheries harvesting and management 13. Education and training 14. Social services 15. Child welfare, guardianship and adoption 16. Health 17. Housing 18. Heritage resources 19. Enforcement and adjudication of laws 20. Gaming 21. Wills and estates 22. Economic development 23. Taxation 24. Resource revenues, including resource royalties 25. Aboriginal language and culture 26. Transportation 27. Public Works 28. Dispute resolution 29. Financial payments 30. Review and amendment process; 31. Ratification 32. General provisions 33. Clarification of rights (certainty in relation to s.35 rights) 34. Access 35. Expropriation 36. National Parks 37. Protected areas 38. Constitutional protection for elements of the final agmt. 39. Fiscal arrangements for self-government 40. Implementation and transitional arrangements 41. Overlaps and rights of other Aboriginal people 42. Aboriginal organizations' loans

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Where two law-making bodies have overlapping jurisdiction there is always a possibility that they might make laws which conflict with each other. The decision as to whether or not a conflict exists in any particular situation will generally be up to the courts. If a conflict exists, there are various legal rules that are applied by the courts to determine which law prevails. Self-government agreements contain provisions that set out a range of such rules. There is no single rule that will cover every circumstance.

In all situations federal laws prevail over laws of the Legislative Assembly.

In most, but not all situations, federal laws prevail over laws made by law-making bodies provided for in self-government agreements.

In other situations, laws made by community or regional law-making bodies provided for in a self-government agreement will prevail over laws of the Legislative Assembly. This may occur where the matter involved is a core function for the community or regional self-government body.

There will also be situations where laws of the Legislative Assembly will prevail in the event of a conflict with laws made by a body provided for in a self-government agreement.

This new reality is likely to have implications for procedures that the Assembly currently follows to prepare, debate and enact its laws. It also has implications for policy-makers in the GNWT who have a significant role in developing the content of legislation and directing the government's legislative agenda.

Among the significant changes that can be fairly anticipated from this trend are:

- New responsibilities for programs and services at the community and regional levels
- New lines of accountability for these programs and services
- New mandatory consultations and interactions among governments
- New procedures and processes for conducting intergovernmental relations
- New expectations from citizens.

Law-making powers, by themselves, do not necessarily bring more financial resources into a government's coffers. Governments use their assets and their taxing powers to raise revenues and generally supplement this through borrowing or transfers from other governments.

In the current environment, financial capacity may be critical factor in the exercise of law-making powers by local or regional institutions. It will likewise have a bearing on programs & services and other operations over time. Perennial financial issues for northern governments typically include:

- capacity to raise own source revenues
- external funding sources (e.g. transfers from other governments)
- borrowing/debt repayment capacity.

The *Report of the Special Joint Committee on Non-taxed Based Community Affairs* provides insights into some of the challenges currently facing many of our small and medium-sized communities. Self-government agreements could mean some of these same communities would be taking on even greater responsibilities than today.

3. Consultation: Formal Requirements

Self-government agreements have begun to define the term "consultation" and have imposed formal consultation requirements on the GNWT and on self-governments at the community or regional level. The range of matters requiring consultation could be quite extensive and this would likely necessitate formal and informal intergovernmental mechanisms to ensure compliance.

Typically, the definition of "consultation" sets out formal requirements such as the following:

> "consultation" means
>
> (a) the provision, to the person or group to be consulted, of notice of a matter to be decided in sufficient form and detail to allow that person or group to prepare its views on the matter;

(b) the provision of a reasonable period of time in which the person or group to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the person or group obliged to consult; and

(c) full and fair consideration by the person or group obliged to consult of any views presented.

These consultation obligations and other undertakings in relation to legislative, executive and administrative processes could have a significant impact on territorial structures and processes. This is particularly true in a system of consensus government where the Assembly and its committees play a significant role in the development and review of the budget and business plans of the GNWT, as well as in relation to the legislative agenda of the government.

4. Coordination: Carrying Out Shared Responsibilities

Obligations to consult that are imposed on both the GNWT and self-governments carry with them formal requirements for notification, information exchange and dialogue. In practice, these obligations will likely require governments to find formal and informal mechanisms to coordinate a range of activities including planning, policy-making, law-making, programs and service delivery, and enforcement.

For example, all northern governments will need to be mindful of the laws, policies and activities of other governments with which they share concurrent powers and a range of interrelated program and service functions. In some cases governments might even share facilities. Consequently, practical realities will require some level of coordination among governments to ensure efficient and effective governance, to reduce overlap and duplication, to achieve the best program and service delivery for all NWT residents, and to ensure that lines of accountability are clear.

We believe this will be an increasingly important process in a political environment where several governments may be "competing" for human and financial resources, as well as for public

support on the political issues of the day. The need for strategic planning and close coordination will likely increase because the scope for independent action could be constrained by consultation or consent requirements in self-government agreements. Clear lines of accountability in this sort of environment might be difficult to find.

The following questions illustrate issues that make coordination among governments important:

- **Capacity**: Where there are shared jurisdiction and responsibilities, how will all northern governments determine the appropriate level of capacity each is to maintain?

- **Legitimacy**: Government performance may play a significant role in whether residents treat a particular government body as relevant or legitimate. How should all northern governments coordinate their activities to ensure that each is fulfilling their role in meeting shared responsibilities?

- **Accountability**: How will all northern governments coordinate and balance their accountability to all NWT residents where these governments have concurrent jurisdiction and shared responsibility for a matter?

- **Accessibility**: How will all northern governments ensure accessibility to all NWT residents where these governments have such responsibilities for a matter?

- **Sustainability**: How will all northern governments coordinate their activities and spending to ensure that all northern governments, and the programs and services they deliver, are sustainable?

Coordination issues in relation to the legislative process will be of particular interest to the Legislative Assembly. Potential issues can be grouped into four categories: legislative jurisdiction; legislative content; legislative process and appropriations.

Legislative jurisdiction will be affected, not because powers are added or taken away, but because self-governments will begin to exercise law-making powers in some of the subject areas where currently only the Assembly makes laws (technically Parliament can also make laws in all fields of territorial jurisdiction but generally this does not occur).

In other words, there will be some overlap in the matters for which the Assembly and self-governments can validly enact legislation. This "concurrent" jurisdiction has the potential to result in conflicts among pieces of legislation. In practice, the legal definition of "conflict" will probably mean that such conflicts are rare. But the result of any conflict will render one of the pieces of legislation "inoperative".

Clearly there can be political, social and economic consequences if the legislation supporting an important program or service is rendered inoperative. Dialogue and coordination will be required among governments to prevent conflicts when laws are being enacted. While governments may be the primary players in finding solutions to any apparent conflicts, it is citizens who often feel the effects of conflicting laws. In cases where laws conflict, a citizen might challenge one or both laws, or might seek some clarification as to which law should be obeyed. Governments in the NWT will obviously want to be very cautious about forcing the time and expense of legal actions on NWT residents. To avoid court actions, governments will need to find mechanisms to minimize the enactment of conflicting laws at the front end, and at the same time find ways to quickly reconcile laws that create conflict once these come to governments' attention.

As a party to self-government agreements, the GNWT may commit to introduce and support certain types of legislation relating to ratification, implementation of self-government agreements, and so on. The commitment to enact legislation can have ripple effects throughout the legislative agenda of government and the Assembly. For example, it might mean amendments to existing legislation, allocation of drafting time by government officials, and rescheduling other new legislation or amendments. These activities would require human and financial resources, and time for committee work and debate.

In addition, self-government agreements will not only have impacts on the timing of legislation but also on other aspects of the processes for preparing, passing and amending legislation. Agreements contain at least two types of commitments in this regard. Self-government agreements may contain provisions that require certain criteria to be met by the Legislative Assembly when enacting a particular piece of legislation. These commitments have important impacts on the content of legislation. Governments may be politically and legally required to live up to these commitments.

In other cases negotiators might take the matter even further by preparing, usually with government involvement, draft bills that contain the understandings of the parties. Such commitments have the collateral impact of requiring some rethinking of the traditions and rules that have governed legislative processes in the Legislative Assembly. In particular, while principles regarding non-confidence will continue to apply as a general rule, members of the Assembly may feel bound to pass legislation over which they have little or no control because of negotiated arrangements that are considered by the parties to be conditions precedent to a self-government agreement. Such scenarios can be foreseen where there have been protracted and expensive negotiations leading up to the introduction of a piece of legislation.

Alternatively, it might be that NWT legislators reject such legislation by refusing to pass it, or substantively change the understanding of negotiators by introducing amendments to bills tendered for passage. One scenario in these situations is for the parties to go back to the negotiation table. Another is for Parliament to pass the legislation and make it binding on the NWT.

Where the agreements contain specific commitments to undertake actions, it would be expected that a government would not deliberately breach the obligations. Some of these obligations will require funds to be spent and therefore some appropriations are implied. A government cannot build facilities or run programs and services without funding. Similarly new or more comprehensive consultation obligations require activities on the part of government officials and politicians.

Related to the commitments of governments to pass certain pieces of legislation, and to the issue of legislative timing, are

commitments to consult, or to obtain consent in certain circumstances, on the preparation, enforcement, or amendment of laws. In these situations the formal processes required for consultation and coordination under the self-government agreements can become lengthy and expensive, especially where parties start from different understandings.

5. Cooperation: The Needs for Positive Relationships

The provisions of self-government agreements might not require cooperation among northern governments, but we assume that it will be a practical necessity if there is to be effective and efficient governance.

As a result of self-government agreements, community and regional governments in the NWT will likely have greater powers and responsibilities in relation to some or all of the so-called "social envelope" programs. This includes programs such as health, education, social services, housing, and so on. These programs tend to be very expensive. In Canada generally, it is the social envelope programs which account for the largest percentage of territorial and provincial spending.

The capacity of all northern governments will be challenged to fund and to provide these sorts of programs and services. Many northern governments, including the GNWT, face "economies of scale". This issue is not unique to communities in the NWT. Many, if not most, rural communities in Canada also share these capacity issues:

> "Many units of local government are too small, either in area or in population, to be effective units of administration for the present day services required of local governments." [Corry]
>
> "Local government, as it has developed in Canada, fulfills primarily a service delivery function, although it can also perform law enforcement and get involved in economic development and other activities. Preservation of Canadian, provincial, regional and ethnic cultures has become a concern of federal and provincial governments, and even with their immense resources they find it a difficult and challenging task." [C.E.S.Franks]

> "Even with full powers of direct taxation, most Aboriginal communities lack the tax base that would enable them to raise enough revenue to provide services at a level that is appropriate for Canadian citizens. This is also true of the "have not" provinces and both the territories, all of which are net beneficiaries of federal transfer payments." [Hogg and Turpel]

In a study on Aboriginal Self-government undertaken by Queen's University during the 1980s one report observed:

> "Local governments are too small anywhere in Canada to be effective for any but local policy-making and programme development....Two points are evident in the consideration of size. First, the band or community level is extremely small even for effective and efficient service delivery. Second, policy-making and development can only be carried out by organizations with much greater resources than those available at the band level....These problems of scale can be overcome, but it is important to recognize that they exist, and that their resolution will require some reliance on other, and larger, organizations, and a corresponding loss of autonomy at the local self-governing level." [C.E.S Franks]

The degree to which this view is, or is not, accurate will have a significant bearing on the on-going implementation of self-government agreements in the NWT.

All northern governments will require ways to secure cooperation from other governments both in areas within their jurisdiction, and in areas beyond their control which may significantly affect their community or region.

Summary

Self-government agreements will empower communities and regions with new law-making powers. They will also have responsibilities for program and service delivery in relation to some matters of critical importance to NWT residents. The futures of all northern governments will be linked together even more closely than they are today. The new relationships that will develop among

our communities and our northern governments will depend on our attitudes, and our relationships, with each other.

Part 4

What will Change ?

The trends and issues we have identified in this report are the ones we think will most likely have significant long-term implications for the Legislative Assembly and the GNWT. However, self-government agreements will have sufficiently momentous legal and political status that they can be anticipated to produce changes to virtually all aspects of governance in the NWT. We believe NWT residents are open to change but will also expect stability.

The expression "implementing self-government" can be misleading. Describing the emergence of new systems of governance in this way can make it sound like a process that is done once or that can be completed in a specific time. For example, we don't describe on-going political, economic and social processes associated with federal, provincial or territorial governments as "implementing public government".

We believe it is important to stress that self-government needs to be seen as an ongoing process. From this perspective, self-government agreements are not ***final*** agreements, they are ***beginning*** agreements. It is important to remember that change will occur over many years rather than completely and suddenly on a given date.

A single self-government agreement is sufficiently long and complex that firm predictions about its implications are not credible. When two, three, six, seven or more self-government agreements are factored into the equation, the process of mapping out implications is even more difficult. Many people in many organizations and levels of government are thinking about the potential changes and are trying to find practical ways to manage the transitions.

Even though self-government agreements are generally quite detailed in their provisions, in all likelihood these documents will only provide a framework, rather than a script, for governance activities. This does not mean these agreements will lose their legal

or political force, but only that practical approaches will need to be taken by all northern governments if governance is to be effective.

Potential Implications: Issues for Further Study

In our view, the range of potential implications arising from implementation of self-government could be quite extensive. This is not surprising because the objective of negotiations has been to fundamentally restructure the systems of governance in the Northwest Territories. Table 3 provides some additional details of the sorts of implications and issues that the Committee thinks might warrant further study.

Table 3: Some Potential Implications To Consider

Some Trends and Issues	Comments	Some Potential Implications To Consider
The Legislative Assembly and self-governments will have concurrent law-making powers.	In practice this means that more than one government can legitimately be involved in enacting laws or delivering programs and services.	Effects on lines of accountability; impacts on strategic planning & policy development; program and service delivery issues; budgets and appropriations; changes to roles and responsibilities among governments in communities and regions
Fundamental changes to the status of some community and regional governments.	Currently the nature and scope of powers and authorities of local and regional government bodies is determined by territorial statute. Under self-government agreements, this would not necessarily be the case. In some cases community governments might be established by the self-government agreement. In others cases the Legislative Assembly will enact legislation to establish communities in accordance with frameworks set out in the agreement. Self-government agreements might place limitations on the Assembly's power to amend or repeal such legislation.	Changes in the status of communities and regions can affect roles and responsibilities among governments and can, over time, raise issues of capacity, legitimacy, accessibility, accountability, and sustainability.

Fundamental changes to the relationships between laws of the Legislative Assembly and some community/regional government laws	Currently the Assembly delegates powers to community and regional government bodies. Therefore laws made by these bodies are subject to laws of the Legislative Assembly. Under self-government agreements there will be circumstances where local or regional laws will prevail over the laws of the Legislative Assembly.	Changes in the status of the laws of communities and regions can affect roles, responsibilities and lines of accountability among governments
Changing roles and responsibilities for Program & Services	Understandably, self-government agreements will lead to changing roles, responsibilities and accountabilities for program and service delivery in some matters such as health, education, social services, and so on.	Changing roles, responsibilities and accountabilities could challenge the capacity of some community and regional governments, and also the GNWT, to deliver certain programs and services. This could have implications for all residents of the NWT. Existing institutions, staff, services, programs and responsibilities cannot be abandoned unless there is a clear plan to maintain continuity of essential programs and services. Processes for negotiating self-government agreements may be ongoing for the next 10 to 15 years. This can mean a prolonged period of restructuring and reform for the Legislative Assembly and GNWT.
Increasing jurisdiction and responsibilities for Self-governments in "social envelope" matters	Programs and services in the so-called "social envelope" sectors (education, language and culture, health, child and family services, social assistance, social housing, etc.) currently account for the largest percentage of most territorial expenditures.	Given current capacity levels in some communities and regions, human and financial resources to deliver these programs and services may be difficult to sustain. Governments will have to address these capacity needs through cooperation and coordination.
Increasing jurisdiction and responsibilities for land and resource matters at the community and regional levels	Development of lands and resources will affect own-source revenues for self-governments.	Changing roles, responsibilities and accountabilities will have implications for the capacity of northern governments, including the GNWT, to meet the ongoing needs of residents.
Lack of clarity on long term financing	Most financing agreements associated with self-government are relatively short term (e.g. 5 to 10 years).	Financing capacity will affect northern governments' ability to carry out roles and responsibilities.
Mobility resulting in depopulation and/or loss of capacity in some communities and regions	There are some indications that suggest such a trend may already be occurring.	At a time when communities and regions will be taking on greater powers and responsibilities, loss of skills and people to larger regional or urban centres in the NWT or south of 60 could have human resource implications for community and regional governments.
The Charter of Rights and Freedoms will apply to self-governments	*Charter* rights will have to be balanced with Aboriginal and treaty rights.	All northern governments will have to consider *Charter* rights and Aboriginal and treaty rights in their policy-making and law-making.

New approaches to representation and political processes	Political rights within a community or region are an important issue in self-government negotiations.	Sensitivities in relation to political rights can lead to protracted and costly legal actions.
Formal requirements for closer relationships among northern governments	Self-governments and the GNWT will be required to consult on a broad range of matters. Consultation criteria are generally contained in the agreements.	Formal consultation requirements in self-government agreements suggest that new mechanisms and procedures may be required to coordinate and carry out consultation activities among government.
Potentially difficult amendment procedures for some territorial legislation and self-government agreements.	In the rapidly changing social, political and economic environment in the NWT, there may be a need for amendment to some of the structures or processes set out in self-government agreements.	Some amendments may be quite difficult to achieve in practice.
Human resource issues for the self-governments and the GNWT	All levels of government in the NWT will have to take into account their needs in respect of personnel and training.	Human resource shortfalls can affect the capacity of all levels of government to implement self-government agreements.
Timing and Transition issues	Transition planning will need to assess ongoing legal and political responsibility for maintaining systems, programs and services, etc. if community and regional governments lack capacity to take on roles and responsibilities set out in self-government agreements.	Intergovernmental agreements could be required to cover these matters if the self-government agreements do not contain sufficient provisions. There could be implications for strategic planning, priority setting, legislative agendas and budget and allocation processes.
Reduced emphasis on federal government involvement in Aboriginal affairs in the NWT	The conclusion of self-government agreements might mean the federal government will reduce its involvement in NWT.	This would likely affect roles and responsibilities among northern governments and can, over time, raise issues of capacity, legitimacy, accessibility, accountability, and sustainability.

Recommendations

Following consultations, the *Special Committee on the Implementation of Self-Government and the Sunset Clause* intends to include recommendations to the Legislative Assembly in its final report. Any recommendations coming out of our work will be for the consideration of future Assemblies.

APPENDIX I

TERMS OF REFERENCE FOR THE SPECIAL COMMITTEE ON THE IMPLEMENTATION OF SELF-GOVERNMENT AND THE SUNSET CLAUSE

WHEREAS, the Legislative Assembly has established the Special Committee on the Implementation of Self-Government and the Sunset Clause;

AND WHEREAS, the Special Committee requires the approval of the Legislative Assembly of its Terms of Reference;

AND WHEREAS, the Special Committee has given consideration as to its Terms of Reference:

NOW THEREFORE I MOVE, seconded by the Member for Nahendeh, that the following provisions be adopted as the terms of reference for the Special Committee on the Implementation of Self-Government and the Sunset Clause:

1. The Special Committee in undertaking its review, adopts the following as operating principles as articulated by the 14th Legislative Assembly in "Towards A Better Tomorrow": a) The Special Committee is committed to the development of a system of Government in the Northwest Territories that recognizes and protects the rights of all residents, balancing individual citizens' rights and collective aboriginal rights;

   b) The Special Committee recognizes that aboriginal and other northern leaders working together in support of a common vision and strong sense of identity is the foundation for a better future for all residents;

   c) The Special Committee holds that aboriginal people must have greater self-determination over their social, cultural, economic and political destiny;

   d) The Special Committee recognizes that aboriginal and public governments have unique, necessary and complementary roles to play in serving territorial residents; and

   e) The Special Committee recognizes the need for strong, effective aboriginal and public governments operating cooperatively;

2. The Special Committee is further committed to;

   a) providing information to aboriginal governments and seeking their input on issues related to the achievement of its mandate; and

   b) an open and public process that provides opportunities for stakeholder groups, elected bodies and the general public to receive information and input their views on issues related to the achievement of its mandate;

3. The Special Committee shall:

   a) In relation to the Sunset Clause:

   i) Provide information to Northwest Territories residents concerning the intent and effect of Section 2 of the Legislative Assembly and Executive Council Act (the Sunset Clause), as to the need to address section 2 before the next election and to solicit input and options; and

ii) Make recommendations to the Legislative Assembly concerning the Sunset Clause.

b) In relation to the Implementation of Self-government:

i) Consider how the Legislative Assembly may be impacted by the implementation of self-government in the areas of legislation and appropriations;

ii) Review the models for implementing self-government in the Northwest Territories currently being negotiated;

iii) Review the impact implementing self-government agreements will have on the Legislative Assembly operating structures and procedures;

iv) Review legislative initiatives that would implement self-government agreements;

v) Make recommendations as to how existing and future legislation, policies and practices of the Legislative Assembly might be amended or developed to reflect the concurrency of jurisdiction between Aboriginal and partnership governments and the Government of the Northwest Territories;

vi) Make recommendations on ways in which the budgetary process might be modified in form and process so as to reflect the duality of interests resulting from the implementation of self-government agreements;

vii)Make recommendations on transitional measures, which could be introduced to prepare for the implementation of self-government agreements:

c) Consider how self-government may impact the Government of the NWT with respect to the functions of policy, programs, services, financing and administration over the immediate and long term:

i) Evaluate the impact self-government will have on the authorities contained in the Northwest Territories Act and Territorial Statutes (legislation);

ii) Investigate and advise on the impact self-government will have on the public governing structure of the Legislative Assembly and Government of the Northwest Territories and its powers, functions, programs, services and finances; and

iii) Make recommendations on transitional measures, which could be implemented to prepare for the implementation of self-government agreements.

4. The Special Committee in carrying out its terms of reference will use best efforts to ensure that its discussions and activities support, compliment and otherwise not overlap with or in any way interfere with self-government negotiations or discussions taking place at the Intergovernmental Forum;

5. The Special Committee shall establish processes for providing information to and affording the residents an opportunity to make their views known;

6. The Special Committee shall have access to such persons, papers and records as necessary to the conduct of its business;

7. The Special Committee shall be provided through appropriations with adequate funds to carry out its terms of reference and assigned responsibilities;

8. The Special Committee is authorized to employ such staff and or consultants and contractors as may be necessary to carry out its responsibilities;

9. The Special Committee may consider other matters referred to it by the Legislative Assembly; and

10. The Special Committee may make recommendations it considers desirable through interim and final reports.

APPENDIX II

Some of the documents reviewed in the preparation of this Preliminary Report

- Tlicho Agreement
- What's Going On, an update on the Tlicho Agreement (September 2002)
- Draft Gwich'in and Inuvialuit Self-government Agreement-in Principle for the Beaufort Delta Region
- Beaufort Delta Plain Language Summary of the Agreement-in-Principle
- Deline Self-Government Negotiations Process and Schedule Agreement
- Salt River First Nation Treaty Settlement Agreement
- South Slave Metis Framework Agreement
- South Slave Metis Interim Measures Agreement
- Deh Cho First Nations Framework Agreement
- Deh Cho First Nations Interim Measures Agreement
- Akaitcho Territory Dene First Nations Framework Agreement
- Akaitcho Territory Dene First Nations Interim Measures Agreement
- Aboriginal Self-Government in the Northwest Territories: Understanding Self-government (GNWT)